

USA v. KATHLEEN DOMINY DATE: May 18, 2011

CR 02-CR-1171 (S-2) (LDW)

STANDARD PLEA¹

THE GOVERNMENT IS TO FIRST COMPLETE ITEMS 22 & 23.

EACH DEFENDANT, BEFORE TAKING A PLEA, IS

OBLIGATED TO READ AND COMPLETE THE QUESTIONS
AND ANSWER AS SET FORTH BELOW

FILED
IN CLERK'S OFFICE
U S DISTRICT COURT E.D.N.Y.

★ MAY 18 2011 ★

1. M~~s~~s. Dominy, before accepting a plea, I will ask you a certain

number of questions I must ask to assure that it is a valid plea. If you do not understand any of my questions, please say so and I will reword the question.

2. Will the Clerk please swear the defendant.

3. Do you understand that, having been sworn, your answers to my questions will be subject to the penalties of perjury or of making a false statement if you do not answer truthfully? YES ☒ NO ☐

4. What is your full name? Kathleen Dominy

5. How old are you? 53

6. Are you a citizen of the United States? YES ☒ NO ☐

¹March 2, 2010 - Revised.

7. If you are not a citizen of the United States, have you discussed with counsel whether or not your guilty plea will have any effect on your ability to remain in this country?

YES ☐ NO ☒ *N/A*

8. Are you satisfied that you understand the effect that a guilty plea in this case may have on your right to remain in this country after any sentence is served?

YES ☒ NO ☐

9. What is the highest schooling or education you have had? *1 yr College*

10. Are you presently or have you been recently under the care of a physician or psychiatrist? YES ☒ NO ☒

11. In the past 24 hours, have you taken any narcotic drugs, medicine or pills or drunk any alcoholic beverage? YES ☒ NO ☒

Have you ever been hospitalized or treated for narcotic addiction?

YES ☐ NO ☒

Is your mind clear? YES ☒ NO ☐

Do you understand what is going on here? YES ☒ NO ☐

12. TO DEFENSE COUNSEL:

Have you discussed this matter with your client? YES ☒ NO ☐

Does he understand the rights he would be waiving by pleading guilty?

YES ☒ NO ☐

Is he capable of understanding the nature of these proceedings? YES ☒ NO ☐

Do you have any doubt as to the defendant's competency to plead at this time?

YES ☐ NO ☒

DEFENDANT WILL ANSWER

13. You have a right to plead not guilty. Do you understand? YES ☒ NO ☐

14. If you plead not guilty, under the constitution and laws of the United States you are entitled to a speedy and public trial by jury with the assistance of counsel on the charges. Do you understand? YES ☒ NO ☐

15. At the trial, you would be presumed to be innocent and the government would have to overcome that presumption and prove you guilty by competent evidence and beyond a reasonable doubt and you would not have to prove that you are innocent. And if the government failed, the jury would have the duty to find you not guilty. Do you understand? YES ☒ NO ☐

16. In the course of the trial, the witnesses for the government have to come to Court and testify in your presence and your counsel has the right to cross-examine the witnesses for the government, to object to evidence offered by the government and to offer evidence on your behalf. Do you understand? YES ☒ NO ☐

17. At the trial, while you would have the right to testify if you choose to do so, you would not be required to testify. Under the Constitution of the United States, you cannot be compelled to incriminate yourself. If you decided not to testify, the Court would instruct the jury that they could not hold that against you. Do you understand? YES ☒ NO ☐

18. If you plead guilty and if I accept the plea, you will be giving up your constitutional rights to a trial and the other rights I have just discussed. There will be no further trial of any kind and no right to appeal or collaterally attack at any time question whether you are guilty or not. A judgment of guilty will be entered on the basis of your guilty plea which judgment can never be challenged. However, you have the right to appeal with respect to sentence. Do you understand? YES ☒ NO ☐

19. If you plead guilty, I will have to ask you questions about what you did in order to satisfy myself that you are guilty of the charge(s) to which you seek to plead guilty and you will have to answer my questions and acknowledge your guilt. Thus, you will be giving up your right not to incriminate yourself. Do you understand? YES ✓ NO _____.

20. Are you willing to give up your right to a trial and the other rights I have just discussed? YES ✓ NO _____.

(THE GOVERNMENT WILL ANSWER FIRST)

21. What agreement, if any, do you have with the government concerning the plea and sentence?

(THE GOVERNMENT WILL ANSWER FIRST.)

22. The government is to list whether there is any waiver of appeal, or other waiver of rights included in the plea agreement.

Paragraph 1 - the defendant will waive her trial rights and plead guilty to Count

One of the current indictment,

Paragraph 2 - the defendant stipulates to the Sentencing Guidelines calculation set forth in the plea agreement,

Paragraph 4 - the defendant agrees that she will not file an appeal or otherwise challenge the conviction or sentence, via 28 U.S.C. Sect. 2255 or any other provision, if the Court imposes a sentence of 41 months or less,

Paragraph 4 - the defendant waives all defenses based on the statute of limitations and venue with respect to any prosecution that is not already time barred in the event that (a) the defendant's conviction is later vacated for any reason, (b) the

defendant violates this agreement, or (c) the defendant's plea is later withdrawn,

Paragraph 4 - the defendant waives additional discovery.

23. The Government to fill in the elements of the crime charged.

Count One (Health Care Fraud)

a) On or about and between September 4, 1998 and January 10, 2002;

b) The defendant, together with others, executed a scheme to defraud health care benefit programs, to wit: the insurance companies named in the indictment;

c) And to obtain money and property from those insurance companies by means of materially false and fraudulent pretenses and representations;

d) In connection with the delivery of and payment for health care benefits and services;

e) The defendant did so knowingly and willfully.

DEFENDANT WILL ANSWER

24. Are you aware of the elements of the crime which you are charged and as to which you wish to plead guilty? YES ☒ NO ☐

25. Have you discussed with your counsel the charge(s) and the (Superseding) indictment/information to which you intend to plead guilty? YES ☒ NO ☐

26. Do you understand the charge(s) in the (Superseding) indictment/information which you are pleading guilty to? YES ☒ NO ☐

27. Do you know the maximum sentence and fine I might impose on each of the charges to which you are seeking to plead guilty? YES ☒ NO ☐

28. The maximum possible penalty under Count One is 10 years of imprisonment plus a fine of \$ 250,000 or twice the pecuniary gain or loss, whichever is higher.

(If more than one count to which defendant intends to plea, follow same procedures with respect to each count.)

Do you realize there is a \$100 Special Assessment Fine for each Count?

(Corporate defendant is a \$400.00 Special Assessment Fine for each Count.)

YES ☒ NO ☐

Do you realize the Court may order restitution if it so directs? YES ☒ NO ☐

Also, do you realize that if any jail time is imposed, a period of 3 years of Supervised Release may be imposed? YES ☒ NO ☐

29.(a) Have you discussed the Sentencing Guidelines with your attorney?

YES ☒ NO ☐

(b) Do you understand that the Sentencing Guidelines are not mandatory, but that, in sentencing, the District Court is required to consider the applicable Guidelines range along with the factors listed in 18 U.S.C. § 3553(a)?

YES ☒ NO ☐

(c) Has your attorney explained the factors listed in 18 USC 3553(a)?

YES ☒ NO ☐

(d) Also do you realize that if the sentence is more severe than you expected you will be bound by your guilty pleas and will not be permitted to withdraw it?

YES ☒ NO ☐

30. Do you have any questions you would like to ask me about the charge(s) or your rights, or anything else relating to this matter? YES ☐ NO ☒

31. PLEA

1. Are you ready to plead? YES ☒ NO ☐

2. **TO DEFENSE ATTORNEY:**

Do you know any legal reason why defendant should not plead guilty?

YES ☒ NO ☐

DEFENDANT TO ANSWER

3. Are you satisfied with your legal representation up until this point?

YES ☒ NO ☐

3a. What is your plea? Guilty

4. Are you making the plea of guilty voluntarily and of your own free will?

YES ☒ NO ☐

5. Has anyone threatened or forced you to plead guilty? YES ☒ NO ☐

6. Other than the agreement with the government as stated on the record,
has anyone made any promises that caused you to plead guilty? YES ☐ NO ☒

7. Has anyone made any promise to you as to what your sentence will be?

YES ☐ NO ☒

8. Did you, as charged in Count One, on or about and between September 4, 1998 and January 10, 2002 execute a scheme to defraud the insurance companies named in the indictment? (summarize the accounts/acts charged in the Count in the indictment).

9. Describe in your own words what you did in connection with the acts charged in Count One. (You do not have to fill this in. The Court will take this portion in open Court).

10. The government is to outline their proof.

11. Based upon the information given to me, I find the defendant is acting voluntarily, fully understands his/her rights and the consequences of his/her plea and that there is a

factual basis for the plea. I, therefore, accept the plea of guilty to Count(s) One of the
Superseding Indictment.

Katler Deez
(Defendant)

R. Perini
(Attorney)

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(Please print)